

REMARKS

With the entry of the foregoing amendments, claims 1-2, 4-7 and 13 are pending in the application.

Applicants note with appreciation that the Examiner has accepted the drawings and has withdrawn all prior formalistic and prior art rejections. In response to the new objections and rejections, applicants have the following remarks.

In response to the objection that the application does not contain proper headings, applicants submit that there is no USPTO requirement for specific headings. The information kindly provided by the Examiner is typically used to assist pro se applicants. The current applicants are not pro se applicants. Nevertheless, in an effort to assist the reader of the application, applicants have inserted a subject heading on page 15 prior to specific discussion of the Figures. Applicants submit that this amendment and the fact that there is no requirement for specific headings, renders the objection moot.

In response to the objection that the specification does not provide proper antecedent basis for the claimed subject matter, applicants request the withdrawal of this objection because there is no USPTO requirement that the claim language match exactly the wording found in the specification. In this regard, the application consists of both the written description as well as the figures. In this case, the combination of the written description as well as the drawings that have been accepted in this case clearly provide support for the language in the claims. Moreover, these objections were not noted in a previous Office Action, which seems to confirm that a person reading the claims can fully understand the claimed subject matter that is supported by the written description as well as the Figures. When reading the claims, it is most helpful to look at Figures 1, 4, 6 and 7 in conjunction with the written description. Figure 7 appears to be very

helpful because of its perspective view, the depiction of the invention in Figure 7 fully supports the language contained in the claims that the Examiner has quoted. In view of the detailed written description and the accepted Figures (namely, Figures 1, 4, 6 and 7), applicants submit that the claims and the claim language are fully supported by the specification and Figures. Thus, applicants requests the withdrawal of the objection.

Claims 1-2, 4-7 and 13 stand rejected as allegedly being obvious over Muller (USP 5,868,973). In response, applicants respectfully traverse the rejection for at least the following reasons.

At the outset, it is critical to note that the applicants' claimed invention is specifically directed to "a device for the continuous manufacture of microparticles or nanoparticles from at least one aqueous phase and one organic phase." In contrast, Muller does not concern or even relate to the manufacture of microparticles or nanoparticles. Instead, Muller concerns a device that produces fibrets, i.e., fibers having a very small diameter and a very high surface area per unit mass (see column 1, line 9), mostly contemplated for forming fiber networks or agglomerates (such as in depth filters for liquid filtration or in webs for air filtration, see column 1, lines 24-40). This type of device and its related technology is quite different than the claimed invention that concerns a device for the continuous manufacture of microparticles or nanoparticles. Indeed, a person skilled in the art of the subject invention would not contemplate referring to anything like the Muller patent because products obtained via the Muller process/device have very different properties than the properties of applicants' particles.

Moreover, the claimed invention requires specific features that are not disclosed or suggested by Muller. The following provides a list of at least some of the specific features in claim 1 that are nowhere disclosed or suggested in the Muller patent.

First, applicants' claimed invention requires "a first inlet and a second inlet which pass through said first side wall and which are appropriate for respectively delivering an organic phase and an aqueous phase to the homogenization compartment." In contrast, Muller's inlet tubes are not suitable for the flow of an organic phase and an aqueous phase. Thus, Muller does not disclose or even remotely suggest a critical feature of the claimed invention.

Second, applicants' claim 1 requires "a homogenization compartment in the form of a cylinder...wherein...said side walls are positioned along a vertical plane. In contrast, the sides of the Muller device are not vertical. In fact, Muller's non-vertical sides teach away from the applicants' claimed invention that requires that applicants' "side walls are positioned along a vertical plane." Thus, Muller does not disclose or suggest the claimed invention.

Third, applicants' claimed invention requires a "homogenization compartment in the form of a cylinder...wherein...the axis of symmetry of said cylinder is positioned horizontally." Again, Muller does not disclose or suggest this feature. In fact, Muller teaches away from this critical feature of the claimed invention. In this regard, in Muller, the axis of symmetry of the cylinder is not horizontal. This contrary teaching of Muller cannot be ignored and confirms that the claimed invention is neither disclosed nor suggested by Muller.

Fourth, applicants' claimed invention requires that "the rotor is installed so that it rotates about a horizontal axis which passes through said second side wall." Muller does not disclose or suggest this claim feature. In fact, in Muller, the rotor does not move around a horizontal axis. Thus, Muller teaches away from the claimed invention.

For at least the foregoing reasons, applicants request the withdrawal of the obviousness rejection.

Applicants submit that the application is in condition for allowance. A notice to that effect is earnestly solicited.

If the Examiner has any questions concerning this case, the undersigned may be contacted at 1-703-786-7421.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Duane M. Byers/

Duane M. Byers
Reg. No. 33,363

DMB:lfo
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100